



# Employment Rights Act 1996

## 1996 CHAPTER 18

### PART XIV

#### INTERPRETATION

#### CHAPTER II

#### A WEEK'S PAY

#### *The calculation date*

#### **225 Rights during employment.**

- (1) Where the calculation is for the purposes of section 30, the calculation date is—
  - (a) where the employee's contract has been varied, or a new contract entered into, in connection with a period of short-time working, the last day on which the original contract was in force, and
  - (b) otherwise, the day in respect of which the guarantee payment is payable.
- (2) Where the calculation is for the purposes of section 53 or 54, the calculation date is the day on which the employer's notice was given.
- (3) Where the calculation is for the purposes of section 56, the calculation date is the day of the appointment.
- [<sup>F1</sup>(3A) Where the calculation is for the purposes of section 57ZF, the calculation date is the day of the appointment.]
- [<sup>F2</sup>(3B) Where the calculation is for the purposes of section 57ZK or 57ZM, the calculation date is the day of the appointment.]
- (4) Where the calculation is for the purposes of section 62, the calculation date is the day on which the time off was taken or on which it is alleged the time off should have been permitted.

*Status: Point in time view as at 01/04/2023.*

*Changes to legislation: Employment Rights Act 1996, Cross Heading: The calculation date is up to date with all changes known to be in force on or before 18 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- [<sup>F3</sup>(4A) Where the calculation is for the purposes of section 63B, the calculation date is the day on which the time off was taken or on which it is alleged the time off should have been permitted.]
- [<sup>F4</sup>(4B) Where the calculation is for the purposes of section 63J, the calculation date is the day on which the section 63D application was made.]
- (5) Where the calculation is for the purposes of section 69—
- (a) in the case of an employee suspended on medical grounds, the calculation date is the day before that on which the suspension begins, and
  - (b) in the case of an employee suspended on maternity grounds, the calculation date is—
    - [<sup>F5</sup>(i) where the day before that on which the suspension begins falls during a period of ordinary or additional maternity leave, the day before the beginning of that period,]
    - (ii) otherwise, the day before that on which the suspension begins.
- [<sup>F6</sup>(6) Where the calculation is for the purposes of section 80I, the calculation date is the day on which the application under section 80F was made.]

#### Textual Amendments

- F1** S. 225(3A) inserted (1.10.2014) by [Children and Families Act 2014 \(c. 6\), ss. 127\(2\)\(c\), 139\(6\); S.I. 2014/1640, art. 4\(a\)](#)
- F2** S. 225(3B) inserted (5.4.2015) by [Children and Families Act 2014 \(c. 6\), ss. 128\(2\)\(d\), 139\(6\); S.I. 2014/1640, art. 6\(d\)](#)
- F3** S. 225(4A) inserted (1.9.1999) by [1998 c. 30, s. 44\(1\), Sch. 3 para. 14 \(with s. 42\(8\)\); S.I. 1999/987, art. 2](#)
- F4** S. 225(4B) inserted (6.4.2010 for certain purposes and otherwise prosp.) by [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\), ss. 40, 269\(4\), Sch. 1 para. 8; S.I. 2010/303, art. 4, Sch. 3 \(with arts. 8-14\) \(as amended by S.I. 2010/1151, art. 22\)](#)
- F5** S. 225(5)(b)(i) substituted (15.12.1999) by [1999 c. 26, s. 9, Sch. 4 Pt. III para. 39; S.I. 1999/2830, art. 2\(2\), Sch. 1 Pt. II \(with Sch. 3 paras. 10, 11\)](#)
- F6** S. 225(6) inserted (6.4.2003) by [Employment Act 2002 \(c. 22\), s. 53, Sch. 7 para. 45; S.I. 2002/2866, art. 2\(3\), Sch. 1 Pt. 3](#)

#### Modifications etc. (not altering text)

- C1** Ss. 220-228 applied (6.4.2006 with application in accordance with reg. 21(1) of the amending S.I.) by [The Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\), regs. 1\(2\), 16\(4\) \(with reg. 21\(5\)\)](#)

## 226 Rights on termination.

- (1) Where the calculation is for the purposes of section 88 or 89, the calculation date is the day immediately preceding the first day of the period of notice required by section 86(1) or (2).
- (2) Where the calculation is for the purposes of section 93, 117 or 125, the calculation date is—
  - (a) if the dismissal was with notice, the date on which the employer's notice was given, and

*Status: Point in time view as at 01/04/2023.*

*Changes to legislation: Employment Rights Act 1996, Cross Heading: The calculation date is up to date with all changes known to be in force on or before 18 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) otherwise, the effective date of termination.
- (3) Where the calculation is for the purposes of section [F7 112, 119, 120 [F8, 121 or 124]] , the calculation date is—
- <sup>F9</sup>(a) . . . . .
- (b) if by virtue of subsection (2) or (4) of section 97 a date later than the effective date of termination as defined in subsection (1) of that section is to be treated for certain purposes as the effective date of termination, the effective date of termination as so defined, and
- (c) otherwise, the date specified in subsection (6).
- (4) Where the calculation is for the purposes of section 147(2), the calculation date is the day immediately preceding the first of the four, or six, weeks referred to in section 148(2).
- (5) Where the calculation is for the purposes of section 162, the calculation date is—
- <sup>F9</sup>(a) . . . . .
- (b) if by virtue of subsection (5) of section 145 a date is to be treated for certain purposes as the relevant date which is later than the relevant date as defined by the previous provisions of that section, the relevant date as so defined, and
- (c) otherwise, the date specified in subsection (6).
- (6) The date referred to in subsections (3)(c) and (5)(c) is the date on which notice would have been given had—
- (a) the contract been terminable by notice and been terminated by the employer giving such notice as is required by section 86 to terminate the contract, and
- (b) the notice expired on the effective date of termination, or the relevant date, (whether or not those conditions were in fact fulfilled).

**Textual Amendments**

- F7** Words in s. 226(3) substituted (1.10.2004) by [Employment Act 2002 \(c. 22\)](#), ss. 53, 55(2), [Sch. 7 para. 46](#); S.I. 2004/2185, [art. 2](#)
- F8** Words in s. 226(3) substituted (29.7.2013) by [The Unfair Dismissal \(Variation of the Limit of Compensatory Award\) Order 2013 \(S.I. 2013/1949\)](#), arts. 1, [3](#) (with art. 4)
- F9** S. 226(3)(a)(5)(a) repealed (15.12.1999) by [1999 c. 26](#), ss. 9, 44, [Sch. 4 Pt. III para. 40](#), [Sch. 9\(2\)](#); S.I. 1999/2830, art. 2(2)(3), [Sch. 1 Pt. II](#), [Sch. 2 Pt. II](#) (with [Sch. 3 paras. 10, 11](#))

**Modifications etc. (not altering text)**

- C2** Ss. 226-229 applied (with modifications) (4.3.1998) by [S.I. 1998/192](#), [reg. 37\(1\)](#)
- C3** Ss. 220-228 applied (6.4.2006 with application in accordance with reg. 21(1) of the amending S.I.) by [The Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#), regs. 1(2), [16\(4\)](#) (with [reg. 21\(5\)](#))

**Status:**

Point in time view as at 01/04/2023.

**Changes to legislation:**

Employment Rights Act 1996, Cross Heading: The calculation date is up to date with all changes known to be in force on or before 18 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.